

SERVICE DATE - JULY 21, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-402 (Sub-No. 5X)

FOX VALLEY & WESTERN LTD.--ABANDONMENT EXEMPTION--IN
KEWAUNEE COUNTY, WI

Decided: July 20, 2000

By decision and notice of interim trail use or abandonment (NITU) served on August 3, 1998, a 180-day period was authorized for the Wisconsin Department of Natural Resources, acting through the Wisconsin Department of Transportation (collectively referred to as WisDNR/DOT), to negotiate an interim trail use/rail banking agreement with Fox Valley & Western Ltd. (FVW)¹ for FVW's 16.7-mile line of railroad, known as the Luxemburg-Kewaunee Line, extending from milepost 18.9 near Luxemburg to milepost 35.6 at the end of the line near Kewaunee, in Kewaunee County, WI. At the joint request of WisDNR/DOT and FVW, the 180-day negotiating period under the NITU was extended by decisions served January 28, 1999, July 22, 1999, and January 24, 2000. The latest extension is scheduled to expire on July 23, 2000.

In a joint motion filed on July 12, 2000, WisDNR/DOT and FVW request an extension of the NITU negotiating period for an additional 180 days. The parties state that WisDNR has made an initial timely offer to FVW. However, the parties indicate that, while negotiations are currently continuing in good faith between them, more time is needed to finalize negotiations. FVW states that it is agreeable to an extension of the negotiating period under the NITU for the portion of the right-of-way from milepost 18.9 to milepost 35.48 and requests that the trail use condition for the portion of the right-of-way from milepost 35.48 to milepost 35.6 not be extended.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended.² Here, the carrier is willing to continue to negotiate trail use only for the portion of the line between milepost 18.9 and milepost 35.48. The requested extension will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the NITU negotiating period for the line segment between milepost 18.9 and milepost 35.48 will be extended for an additional 180 days from July

¹ FVW is a wholly owned subsidiary of Wisconsin Central Transportation Corporation.

² See Rail Abandonments--Supplemental Trails Act Procedures, 4 I.C.C.2d 152 (1987).

23, 2000. FVW does not agree to continue trail use negotiations for the portion of the line between milepost 35.48 and milepost 35.6. Therefore, subject to meeting the conditions regarding salvage imposed in the decision served August 3, 1998, FVW may fully abandon this segment of the line.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The joint motion of WisDNR/DOT and FVW to extend the NITU negotiating period for the portion of the line from milepost 18.9 to milepost 35.48 is granted. FVW may fully abandon the portion of the line from milepost 35.48 to milepost 35.6.

2. The negotiating period under the NITU for the portion of the line from milepost 18.9 to milepost 35.48 is extended for 180 days until January 19, 2001.

3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary